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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH CENTRAL DIVISION**

<p>EUGENE SCALIA, SECRETARY OF LABOR, UNITED STATES DEPARTMENT OF LABOR,</p> <p style="text-align: center;">PLAINTIFF,</p> <p>v.</p> <p>PARAGON CONTRACTORS CORP. AND BRIAN JESSOP, individually,</p> <p style="text-align: center;">DEFENDANTS.</p> <p>PAR 2 CONTRACTORS, LLC,</p> <p style="text-align: center;">INTERVENOR DEFENDANT.</p>	<p>Case No. 2:06 CV 00700</p> <p><b>DEFENDANT PARAGON CONTRACTORS CORP. RESPONSE TO COURT’S ORDER FOR EXPEDITED HEARING</b></p>
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Defendant, Paragon Contractors Corporation, by and through its undersigned counsel Jackson Lewis PLLC, hereby submits this memorandum in compliance with the Court’s Order (ECF No. 268) that it file a response to Plaintiff’s Motion for Preliminary Injunction and to Compel Business Records and In Camera

Deposition Testimony (ECF No. 267, the “Motion”) by 1:00 p.m. on January 12, 2021.

As is noted by Plaintiff in his Motion, on September 25, 2017, Plaintiff filed a Motion to Show Cause (ECF No. 138) seeking to extend this Court’s 2016 Contempt Order (ECF No. 99) to Par 2. The underlying basis for that Motion to Show Cause was the premise that Paragon had discontinued doing business but had transferred its assets and work to Par 2, and that Par 2 should be joined in the instant matter as the successor in interest to Paragon. As is likewise noted in Plaintiff’s Motion, a hearing on that request to join Par 2 was held before Judge Nuffer on January 26-27, 2018 resulting in the entry of Findings of Fact and Conclusions of Law on September 10, 2018 (ECF No. 209).

At the time of the January 2018 hearing on Plaintiff’s Motion to Show Cause, in furtherance of the very purpose of that motion, considerable evidence was offered to this Court relating to the status of the operations of Paragon Contractors prior to that date. After hearing and considering that evidence, this Court, through Judge Nuffer, made the following factual finding:

11. While Paragon remains an active company, it has no contracts for work, jobs, or employees. Paragon sold most of its tools and equipment over the last few years.<sup>19</sup> At most, Paragon had “a job or two” that was “still going on” in 2016 somewhere in Louisiana, but Brian Jessop does not remember any details of the job. Paragon had no jobs or contracts for work in 2017.

(ECF No. 209, page 5, finding no. 11, references to record removed)

Accordingly, as this Court has already conclusively determined, Defendant Paragon has no contracts, work or jobs; has no employees, tools or equipment; and

has not had since before 2017. These factual findings were a foundational requirement for the Court's subsequent conclusion that Par 2 was the successor in interest to Paragon. Moreover, as is also noted in Plaintiff's Motion, Paragon's corporate charter with the State of Utah has now expired, so it no longer even has active status. As a consequence, the relief being sought by Plaintiff to prevent Paragon from "transferring, concealing, encumbering, or dissipating assets and business operations during this litigation" is clearly, by this Court's own binding determination, moot to the extent it may pertain to Paragon. It is also impossible to comply with inasmuch as Paragon has no assets or business operations that could be transferred, concealed, encumbered or dissipated.

For the foregoing reasons, Defendant respectfully requests that the Court deny Plaintiff's Motion relative to Paragon.

Respectfully submitted this 12<sup>th</sup> day of January 2021.

/s/ Rick J. Sutherland  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 12<sup>th</sup> day of January 2021, I caused to be served via the Court's ECF electronic filing system the foregoing response, on the following:

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